

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

JUDGMENT INCLUDING SENTENCE  
UNDER THE SENTENCING REFORM ACT

v.

BRIAN KISSELL

Case Number CR 09-196

RONALD W. HAYWARD, ESQUIRE  
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count one.  
 was found guilty on count(s) \_\_\_\_\_ after a plea of not guilty.

Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

Title and Section	Nature of Offense	Date Offense Concluded	Count Number(s)
U.S.C. §2252(a)(4)(B)	Possession of Child Pornography	May 20, 2008	one

The defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) \_\_\_\_\_ and is discharged as to such count(s).  
 Count(s) \_\_\_\_\_ (is) (are) dismissed on the motion of the United States.  
 The mandatory special assessment is included in the portion of this Judgment that imposes a fine.  
 It is ordered that the defendant shall pay to the United States a special assessment of \$100.00, which shall be due immediately.

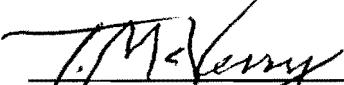
It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of residence or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

None Assigned

Defendant's USM No.

November 12, 2009

Date of Imposition of Sentence

  
Signature of Judicial Officer

Terrence F. McVerry/United States District Judge

November 13, 2009

Date

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**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 60 months.

X The Court makes the following recommendations to the Bureau of Prisons:

The Bureau of Prisons designate the defendant to an institution in which he may participate in counseling and treatment for sex offenders.

The defendant be permitted to serve this sentence of imprisonment in a Federal Correctional Facility reasonably proximate to Pittsburgh, Pennsylvania where his family currently resides.

   The defendant is remanded to the custody of the United States Marshal.  
X The defendant shall surrender to the United States Marshal for this district,

\_\_\_\_ at \_\_\_\_ on \_\_\_\_

X as notified by the Marshal.

X If the defendant has not been notified by the Bureau of Prisons or the United States Marshal as to when and where he will commence service of his sentence by 12:00 p.m. on January 11, 2010, he shall report by 12:00 p.m. that day to the United States Marshal for this district.

**RETURN**

I have executed this Judgment as follows:

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Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_

with a certified copy of this Judgment.

\_\_\_\_\_  
United States Marshal

By \_\_\_\_\_  
Deputy Marshal

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of 10 years.

While on supervised release, the defendant shall not commit another Federal, state or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth on the following page). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

- The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
- The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.
- The defendant shall cooperate in the collection of DNA as directed by the probation officer.
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer.
- Additional conditions:

Defendant shall participate in a mental health and/or sex offender treatment program, approved by the probation office, until such time as he is released from the program by the court. Defendant shall abide by all program rules, requirements, and conditions of the sex offender treatment program, including submission to polygraph testing, to determine if defendant is in compliance with the conditions of release.

Defendant shall not associate with children under the age of 18, except in the presence of a responsible adult who is aware of the nature of defendant's background and current offense and who has been approved by the probation office.

As required by 18 U.S.C. §§ 3563(a)(8) and 3583(d), and the Sex Offender Registration and Notification Act, defendant shall report the address where he resides and any subsequent change of residence to the probation office responsible for defendant's supervision, and further shall register as a convicted sex offender in any state where defendant resides, is employed, carries on a vocation, or is a student.

Defendant shall not possess any materials, including pictures, photographs, books, writings, drawings, videos, video games depicting and/or describing child pornography as defined at 18 U.S.C. § 2256(8).

Defendant is permitted to possess and/or use a computer and is allowed access to the internet. However, defendant shall consent to the installation of any hardware /software to monitor any computer or other electronic communication or data storage devices which he uses or to prevent access to particular materials. Defendant shall consent to periodic inspection of such hardware / software to ensure it is functioning properly. Defendant shall pay the monitoring costs as directed by the probation office.

Defendant shall provide the United States Probation Office with accurate information of his entire computer system (hardware / software) and other electronic communication or data storage devices or media to include all passwords used and the name of the internet service provider(s). Defendant will also abide by all rules of the computer restriction and monitoring program.

Defendant shall submit his person, property, house, residence , vehicle, papers, effects, computers, and other electronic communication or data storage devices or media, to search at any time with or without a warrant by any law enforcement or probation officer based upon reasonable suspicion of contraband, evidence of a violation of a condition of his release/supervision, or unlawful conduct by defendant. Failure to submit to a search may be grounds for revocation. Defendant shall inform any other residents that the premises may be subject to a search pursuant to that condition.

For offenses committed on or after September 13, 1994:

- The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

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**STANDARD CONDITIONS OF SUPERVISION****While the defendant is on probation or supervised release pursuant to this Judgment:**

- 1) the defendant shall not commit another Federal state or local crime;
- 2) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 3) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 4) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 5) the defendant shall support his or her dependents and meet other family responsibilities;
- 6) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling training or other acceptable reasons;
- 7) the defendant shall notify the probation officer within seventy-two hours of any change in residence or employment;
- 8) the defendant shall refrain from excessive use of alcohol and shall not purchase possess use distribute or administer any narcotic or other controlled substance or any paraphernalia related to such substances except as prescribed by a physician;
- 9) the defendant shall not frequent places where controlled substances are illegally sold used distributed or administered;
- 10) the defendant shall not associate with any persons engaged in and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer; criminal activity
- 11) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 12) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 13) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 14) as directed by the probation officer the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history of characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

**These conditions are in addition to any other conditions imposed by this Judgment.**

Upon finding of a violation of probation or supervised release I understand that the Court may (1) revoke supervision (2) extend the term of supervision and/or (3) modify the conditions of supervision.

All of the conditions listed in this order have been read to me. I fully understand the conditions and have been provided a copy of them.

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(Signature)

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(Date)

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U.S. Probation Officer/Designated Witness

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(Date)

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**RESTITUTION, FORFEITURE, OR  
OTHER PROVISIONS OF THE JUDGMENT**

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
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Payments of restitution are to be made to:

- the United States Attorney for transfer to the payee(s).
- Clerk, U. S. District Court, for transfer to the payee.

Restitution shall be paid:

- in full immediately.
- in full no later than \_.
- in equal monthly installments over a period of \_ months. The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.
- in installments according to the following schedule of payments:

The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f) and may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

- The Court has determined that the defendant does not have the ability to pay interest. It is ordered that:
  - The interest requirement is waived.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

**FORFEITURE**

- The defendant is ordered to forfeit the following property to the United States:

one HP Pavilion desktop computer, model number 8160, serial number US72962387 and one HP Pavilion desktop computer, model number a1217n, serial number CNH61201Jj.